

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

BILL: CS/SB 38-A

INTRODUCER: Transportation and Economic Development Appropriations and Senator Fasano

SUBJECT: Economic Development

DATE: January 8, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Noble	Noble	TA	Fav/CS
2.	McVaney	Kelly	WPSC	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Over the years, the state of Florida has created a number of economic incentives and tax refund programs to help expand or retain existing businesses, and to recruit companies from outside Florida. The current trend in economic development is for states to nurture vigorous, high-growth businesses within their borders, a concept known as “economic gardening.”

Committee Substitute for Senate Bill 38-A creates a two-pronged economic gardening initiative, to be managed by the Office of Tourism, Trade, and Economic Development (OTTED). The first component is the Economic Gardening Business Loan Pilot Program, which will provide low-interest, short-term loans to eligible businesses for working-capital expenses, employee training, and salaries of new employees.

The second component is the Economic Gardening Technical Assistance Pilot Program, where a third-party contractor with expertise in business outreach and development will work with eligible businesses to assist them with their infrastructure, networking, and mentoring needs.

Eligibility requirements are identical for both pilot programs. The businesses must be Florida-based, for-profit companies that employ between 10 and 50 persons, generate between \$1 million

and \$25 million in annual revenues, have experienced steady growth in gross revenues and employment during 3 of the last 5 years, and be eligible for the Qualified Targeted Industry tax refund program.

From funds to be provided in a special session appropriations act to implement this act, OTTED may use up to \$1.5 million for the technical assistance pilot program.

II. Present Situation:

Florida's tools for economic development

The state of Florida has at least 15 economic incentive programs, at least 16 categories of business-related sales tax exemptions, two investment funds, and a variety of university-based research commercialization programs. Many offer benefits for retention and expansion of existing Florida businesses; some are tailored for recruitment of out-of-state businesses, while others promote business creation.

Among those tools are:

- The Qualified Targeted Industry (QTI) tax refund program, where seven categories of businesses can receive refunds of sales, corporate and other types of taxes paid in exchange for creating jobs paying wages that are at least 115 percent of the local prevailing wage.¹ In 2007, OTTED paid more than \$13 million in refunds to 82 QTI companies that had created 20,742 new jobs.² Since the QTI program was created in 1994, participating businesses have created 64,415 jobs, paying an average wage of \$41,435.³
- The Innovation Incentive Program,⁴ created in 2006, provides funding for research and development institutes and for companies defined as “innovation businesses.” It followed on the heels of a successful state initiative persuading the California-based Scripps Research Institute to open a research lab in Palm Beach County. In its first two years, the Legislature appropriated \$450 million for the program, resulting in the establishment of seven research and development institutes throughout the state.⁵ The entities receive periodic disbursement of their state-allocated funds, based on meeting job-creation, outreach, and other measures specified in their contracts with OTTED. These entities, at least initially, appear to be achieving their performance measures.
- The Florida Opportunity Fund⁶ was created in 2007 to help attract venture capital investment in Florida companies. The state appropriated \$29.5 million to help match private investments in a “fund of funds” approach. The Opportunity Fund’s board of directors last fall selected the fund’s manager, Florida First Partners, which by this spring may be entering into contracts with venture capital firms for joint investments.

¹ Section 288.106, F.S.

² 2007 Incentives Report, page 13. Prepared by Enterprise Florida, Inc. Available at http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/Resource_Center/Resource_Links/2007%20Incentives%20Report.pdf.

³ Ibid.

⁴ Section 288.1089, F.S.

⁵ Interim Report 2009-107: Review of OTTED’s Oversight of the Innovation Incentive Grant Program. Available at http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-107cm.pdf.

⁶ Section 288.9264, F.S.

- Additionally, the Legislature in 2008 authorized the State Board of Administration (SBA) to invest up to 1.5 percent of the state pension fund in technology and growth investments, which could equate to an investment of as much as \$1 billion. SBA has been interviewing potential fund managers to assist in this initiative.

Florida also has implemented programs that, while not strictly economic development, assist businesses through economic hardships. One example is the Florida Small Business Emergency “Bridge Loan” Program, which the Governor historically establishes after a natural catastrophe (typically hurricanes) to give affected business owners short-term loans to repair their facilities, restock inventory, and pay their employees until federal assistance or insurance claim payments arrive. OTTED relies on a system of entities, including certified development corporations and regional planning councils, to act as its financial agent in disbursing the short-term loans to qualified businesses. Typically, the state is repaid as the assignee for any federal or insurance payments for which the loan recipients applied.

New Directions in Economic Development

In 2008, the Governor released his ideas for developing a “Blueprint for Florida’s Innovation Economy,” to be driven, among other factors, by a well-trained workforce, competitive business climate, and multi-modal infrastructure.⁷ Also last year, OTTED launched “Project Green Jeans,” a pilot program for Florida’s Treasure Coast counties that is designed to connect small businesses, economic developers, and information technology companies to promote business growth.⁸

Other Florida entities have explored new strategies on economic development. For example, the University of Central Florida (UCF) has created a network of business incubators⁹ focused on facilitating the startup and growth of emerging Florida companies so they can become financially successful. Since 1999, the UCF network has served more than 90 young companies, which have generated more than 900 new jobs in Florida and more than \$200 million in annual revenues.¹⁰

These initiatives were inspired by the current trend in economic development, “economic gardening,” which is basically defined as strategies to “grow” existing businesses in a community, region or state. It is the opposite of “economic hunting,” which is the more traditional economic-development strategy used by states to recruit companies from outside their borders.

A well-publicized success story in economic gardening is the town of Littleton, Colorado which went from being in a broad-based recession with thousands of layoffs in 1987 to having a job-growth rate of 135 percent from 1990 to 2005.¹¹ Rather than attempt a quick fix through traditional economic recruitment efforts – such as tax breaks and incentives – town leaders

⁷ See <http://groups.google.com/group/florida-green-jeans/web/background-papers>. Power Point Presentation by Dr. Dale Brill, OTTED director. Posted June 18, 2008. Last visited Jan. 4, 2009.

⁸ Ibid.

⁹ See <http://www.incubator.ucf.edu/>. Last visited Jan. 4, 2009.

¹⁰ Ibid.

¹¹ See http://www.sba.gov/advo/research/sbe_06_ch06.pdf.

developed an entrepreneurial strategy to generate new jobs from existing employers within the community.¹²

“Economic gardening” tends to focus on so-called “second-stage companies,” businesses that have grown past the startup phase, but haven’t reached maturity.¹³ A business typically begins to enter its second stage when it approaches \$1 million in total receipts; for most companies \$50 million represents the upper limit of second stage. Employee numbers and revenue ranges vary by industry, but the number of firms with 10 to 100 employees and between \$750,000 to \$50 million in receipts comprises the vast majority of second-stage companies.

Not all second-stage companies are created equally. Some fail, others grow slowly, some become major corporations. And, there are subsets of second-stage companies. One category is popularly called “gazelles,” defined as companies that, starting with base revenues of at least \$100,000, increase their annual revenues by 20 percent or more each year for a period of 4 to 5 years.¹⁴ By some estimates, “gazelles” comprise between 3 percent to 5 percent of all U.S. companies. While vigorous, “gazelles” encounter problems that can slow their growth: trouble obtaining financing geared to their needs, the need for appropriate intellectual property protection, proper workforce education, and development of market opportunities.¹⁵

According to OTTED, Florida potentially has 10,320 companies that could be defined as “gazelles,”¹⁶ based on their employment numbers and other criteria.

III. Effect of Proposed Changes:

Section 1 creates the Economic Gardening Business Loan Pilot Program in s. 288.1081, F.S., to assist second-stage, high-growth businesses. It expresses legislative findings, specifies eligibility and reporting requirements, and explains the administration of the loan program.

The legislation allows OTTED to enter into grant agreements with eligible “loan administrators,” who will make the 4-year loans of up to \$250,000, at 2 percent interest, to qualified applicants.

Loan administrators must:

- Be a not-for-profit entity incorporated under ch. 617, F.S., whose principle place of business is in Florida.
- Have 5 years of verifiable experience of lending to businesses in this state.
- Have submitted an application to OTTED that includes its business plan for lending activity under this new program. The business plan must have a description of outreach efforts, underwriting, credit policies and procedures, credit decision processes, monitoring policies and procedures, collection practices, the membership of its board of directors, and examples of loan documentation currently in use. The application also

¹² Ibid, but also see the City of Littleton’s web site, <http://www.littletongov.org/bia/economicgardening/default.asp>.

¹³ See <http://www.edwardlowe.org/index.elf?page=ss>. Last visited Jan. 4, 2009.

¹⁴ See <http://www.inc.com/magazine/20010515/22613.html>, among numerous other sites. Last visited Jan.4, 2009.

¹⁵ See [http://www.congress.gov/cgi-](http://www.congress.gov/cgi-bin/cpquery/?&sid=cp10918f0T&refer=&r_n=hr205.109&db_id=109&item=&sel=TOC_12453&)

[bin/cpquery/?&sid=cp10918f0T&refer=&r_n=hr205.109&db_id=109&item=&sel=TOC_12453&](http://www.congress.gov/cgi-bin/cpquery/?&sid=cp10918f0T&refer=&r_n=hr205.109&db_id=109&item=&sel=TOC_12453&). Last visited Jan. 4, 2009.

¹⁶ Meeting with Dr. Dale Brill, director of OTTED, on Dec. 31, 2008.

must include a detailed description and supporting documentation of the nature of partnerships with local or regional economic and business development organizations.

The agreements between OTTED and the loan administrators will be for a term of at least 4 years, and may be amended or extended upon mutual consent. OTTED can terminate a grant agreement if the administrative entity fails to meet specified minimum performance standards.

OTTED can disburse to the loan administrators no more than 50 percent of the aggregate amount of loan funds specified in their grant agreements. The remainder will be disbursed after OTTED verifies how the loan proceeds are being used and whether the loan decisions have been successful. No new loans may be made after June 30, 2011.

The loan administrators will receive a loan origination fee at closing of 1 percent of each loan issued, as well as a monthly servicing fee of .625 percent of each payment from the borrower.

Loan administrators must remit the loan payments to OTTED on a quarterly basis. Additionally, funds collected through the sale of collateralized assets from businesses that have defaulted on their loans shall be returned, minus expenses, to OTTED as soon as possible following collection efforts. In turn, OTTED shall remit these funds to the state's General Revenue Fund.

Any unexpended balance of the state appropriation for the loan program shall not revert to the General Revenue Fund at the end of each fiscal year, but shall remain with OTTED in its Economic Development Trust Fund, until July 1, 2011, when the funds will revert.

Loan administrators must submit quarterly reports to OTTED, which shall include, but are not limited to, the number and wages of full-time equivalent jobs created by the companies receiving the loans, and the type and location of business activities funded.

The loan administrators will loan the state funds to eligible applicants, who may use the funds to pay salaries of the new employees, conduct employee training, or to make working capital purchases. Basic eligibility requirements for any loan applicant are:

- It must be a for-profit, privately held, investment-grade business that employs between 10 and 50 persons.
- The business has been in existence in Florida for a period of at least 2 years.
- The business generates between \$1 million and \$25 million in annual revenue.
- The business is eligible for the Qualified Targeted Industry (QTI) tax refund program pursuant to s. 288.106, F.S. A key requirement of the QTI program is that businesses must pay an annual average wage of at least 115 percent of the annual average local or statewide wage.
- During 3 of the last 5 years, the company has experienced steady growth in its gross revenues and employment.

The loan program is designed for high-growth, high-wage companies, based on its link to the QTI program. Section 288.106(1)(o), F.S., targets companies that have growth potential, are stable, pay high wages compared to the statewide or regional average, are not dependent on access to Florida-based markets or resources, contribute to a diversified industry base, and benefit Florida's overall economy. OTTED and Enterprise Florida, Inc., have developed a list of

seven categories of “targeted industries” that are eligible for the QTI incentive: manufacturing facilities, finance and insurance services, whole trade, information industries, professional/scientific/technical services, management services, and administrative support services.¹⁷ These are the same categories of companies eligible for the Economic Gardening initiatives created in CS/SB 38-A.

Businesses interested in participating in the program must submit an application to the loan administrator, which must include, among other information:

- A description of the type of business activity, product, or research and development undertaken by the applicant, including the applicable six-digit North American Industry Classification System (NAICS) codes;
- The applicant's projected investment to be made in the business, if any, in conjunction with a loan;
- The applicant's annual revenue, number of employees, number of full-time equivalent employees, and other information necessary to verify its eligibility for the Economic Gardening Technical Assistance Pilot Program (to be created in s. 288.1082, F.S.);
- The total investment in the business from all sources, if any, to be made in conjunction with a loan, if any; and
- The number of net new full-time equivalent jobs in this state the applicant will create as of December 31 of each year as a result of a loan, and the average annual wage of these jobs.

The loan administrators will make loans based on a determination of which applicants are in the best position to continue making a successful long-term business commitment to Florida. When evaluating the applications, the loan administrators also must consider whether an applicant has received local-government incentives and waivers of local taxes or fees, and whether the applicant has access to other investments or funding sources.

The terms of the loans are:

- The maximum loan amount is \$250,000;
- The loan is collateralized by a UCC-1 lien filing covering all corporate assets, so if the business defaults, these assets can be sold to repay the state;
- The loan period is 4 years;
- The loan interest rate is 2 percent;
- Interest and principal is due for each month of the loan term, except that in the first 12 months of the loan only interest is due each month.
- If the applicant has not created the jobs projected pursuant to its agreement, the interest rate shall be adjusted to the prime rate plus 4 percent for the remainder of the loan.
- Interest and principal payments are based on the loan's unpaid balance.

OTTED is authorized to promulgate emergency rules, pursuant to s. 120.54 (4), F.S., to implement this program.

¹⁷ 2007 Incentives Report, page 51. Prepared by Enterprise Florida, Inc. Available at http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/Resource_Center/Resource_Links/2007%20Incentives%20Report.pdf.

Unless earlier reauthorized by the Legislature and approved by the Governor, the Economic Gardening Business Loan Pilot Program is repealed June 30, 2016. Upon repeal, any loan funds held by an administrative entity not encumbered for ongoing loans, minus any fee due to the administrative entity, shall be remitted to OTTED and eventually revert to the General Revenue Fund.

OTTED must submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a semi-annual report detailing the use of the business loan funds. These reports, due June 30 and December 31, shall, at a minimum, include the number of businesses receiving loans, the number and wages of jobs created, the type and location of business activity funded, the amount of funds repaid to date, and the borrower default rate.

Section 2 creates the Economic Gardening Technical Assistance Pilot Program. The second component of CS/SB 38-A seeks to provide technical assistance for eligible businesses, which must meet the same criteria as the businesses seeking the loans.

OTTED is directed to select by competitive bid a third-party contractor to implement this pilot program. Selection criteria for the contractor must include the ability to implement such a program on a statewide basis; the capability to provide counseling services, access to technology and information, marketing services and advice, business management support, and similar services; and whether the contractor qualifies for matching funds to provide these services. The legislation also authorizes the third-party contractor to promote the general business or industrial interests of the state.

Twice a year, OTTED will review the third-party contractor's progress and determine if it is meeting its contractual requirements. If not, OTTED may terminate the contract and re-bid.

The technical assistance pilot program focuses on three elements of business assistance:

- Access to free or affordable information and consulting services, such as databases on markets, customers, and competitors.
- Information on obtaining physical infrastructure, quality-of-life infrastructure, and intellectual infrastructure that provides educational opportunities to help maintain a company's competitiveness.
- Access to interaction and exchange between business owners and resource providers, which may include trade associations, academic institutions, business roundtables, peer-to-peer learning sessions, and mentoring programs.

The third-party contractor is directed to select eligible businesses in more than one industry cluster and, where possible, in different regions of the state.

Any business receiving the technical assistance must sign an agreement with the third-party contractor committing to the following minimum conditions, on a basis determined by the contractor:

- Attending a minimum number of meetings with the third-party contractor.
- Report job-creation data.
- Provide financial data.

The third-party contractor must submit a quarterly report to OTTED with information about the participating businesses.

OTTED is authorized to promulgate rules to implement the technical assistance pilot program. It also must submit to the President of the Senate, the Speaker of the House and the Governor an annual report detailing the progress of the technical assistance pilot program. The first report is due December 31, 2009. This annual report shall, at a minimum, include the number of businesses receiving assistance, the type and location of businesses assisted, and the number and wages of jobs created as a result of the business assistance provided, if any.

Section 3 directs the Office of Program Policy Analysis and Government Accountability, by December 31, 2012, to review the technical assistance pilot program and its effectiveness, and provide a report to the President of the Senate, the Speaker of the House of Representatives, and the Governor.

Section 4 specifies that from the funds provided to OTTED during a special appropriations act for FY 2008-2009 to implement this initiative, up to \$1.5 million may be expended to implement the technical assistance pilot program.

Section 5 specifies that CS/SB 38-A shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 38-A could have a positive impact on the targeted industries that meet the criteria for loans and technical assistance through the Economic Gardening initiative. At this time, there are no estimates on how many companies will meet the eligibility criteria, and which of those will take advantage of the loan or technical assistance programs.

C. Government Sector Impact:

CS/SB 38-A specifies that from the funds provided to OTTED during a special appropriations act for FY 2008-2009 to implement the economic gardening initiative, up to \$1.5 million may be expended to implement the technical assistance pilot program. The CS does not specify the amount of total funding for this initiative, or its source.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation and Economic Development Appropriations Committee

At its Jan. 7, 2009, meeting, the committee adopted 3 amendments making the following changes:

- The loan administrators are directed, when evaluating loan applications, to consider whether the applicant company has received local-government incentives; received waivers from local fees or taxes; and has access to other investments or funding sources for its project.
- OTTED, when selecting the entity providing the economic gardening technical assistance, is directed to consider whether the entity qualifies for outside funds to match the maximum \$1.5 million the state is providing.
- The eligibility requirements for companies participating in both the loan and the technical assistance program were modified. The employment requirement is for companies with 10 to 50 employees (rather than 10 to 99); the annual revenue requirement is now \$1 million to \$25 million (rather than \$1 million to \$50 million); and the companies now must have experienced steady growth in gross revenues and jobs during 3 of the last 5 years (rather than having increased by at least 10 percent over the last 2 years).

B. Amendments:

None.